

## REMARKS/ARGUMENTS

The Official Action, dated February 19, 2010, included the rejections:

1. Claims 1-7 and 9-12 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite;
2. Claims 1-3, 6, 9, 11-12, 39-42, 49-51, 54-55, 57-59, 61-64, 66-67, 69-70, 73, 75—77, 81-82, 85-87, 90-91, 93, 110, 114-115, 118, 120, 122-125, 127, 142-143, and 145-154 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE (U.S. Patent No. 7,257,547 B1) in view of MAYER et al. (U.S. Patent Application Publication No. 2002/0026364 A1) and COGEN (U.S. Patent Application Publication No. 2002/0138350 A1);
3. Claims 10, 47, and 83 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and BARATZ (U.S. Patent Application Publication No. 2004/0054585 A1);
4. Claims 43, 78, 134, and 139 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and TOTH (U.S. Patent Application Publication No. 2003/0078793);
5. Claims 72-71, 129-131, and 140 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and CAMAISA et al. (U.S. Patent No. 5,845,263);
6. Claims 4-5, 7, 44, 52-53, 65, 68, 79, 92, 112-113, and 116 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and RAGSDALE-ELLIOTT et al. (U.S. Patent Application Publication No. 2002/0147647 A1);

7. Claim 74 is rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and GOLD (U.S. Patent Application Publication No. 2003/0089832 A1);

8. Claims 132-133 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and LEIFER (U.S. Patent Application Publication No. 2003/0088469 A1);

9. Claims 135-136 and 139 were rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and WALKER et al. (U.S. Patent No. 5,794,207); and

10. Claim 144 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER, COGEN, and FANO.

Upon entry of the present amendment, claims 1-6, 9-12, 39-44, 47, 49-55, 57-79, 81-83, 85-93, 110, 112-116, 118, 120, 122-124, 129-131, 133, 135-136, 140-141, 143-144, and 151-154 have been amended. Claims 7, 125, 127, 132, 134, 139, 142, and 145-150 have been cancelled. Claims 8, 13-38, 45-46, 48, 56, 80, 84, 94-109, 111, 117, 119, 121, 126, 128, and 137-138 have been previously cancelled. New claims 155-173 have been added. Thus, claims 1-6, 9-12, 39-44, 47, 49-55, 57-79, 81-83, 85-93, 110, 112-116, 118, 120, 122-124, 129-131, 133, 135-136, 140-141, 143-144, and 151-173 are currently pending for consideration by the Examiner.

#### **I. The Rejection Under 35 U.S.C. § 112, Second Paragraph**

Claims 1-7 and 9-12 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite, for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. More specifically, the Official Action asserts that the

expression “the status” in independent claim 1, line 5, lacks a proper antecedent basis. In the present amendment, Applicant has amended independent claim 1 such that the cited expression has a proper antecedent basis. Accordingly, Applicant respectfully requests that the rejection of claims 1-7 and 9-12 under 35 U.S.C. § 112, second paragraph, be withdrawn.

## **II. The Rejections Under 35 U.S.C. § 103(a)**

Since there are 13 independent claims in the present patent application, each directed to different aspects of Applicant’s invention, and many of which have a significant number of claims dependent therefrom, Applicant will address each of these 13 independent claims and related dependent claims in a separate section. Applicant believes that this arrangement will assist the Examiner in examining the present patent application. Additionally, Applicant wishes to draw Examiner’s attention to the fact that many of the dependencies of the claims have been changed in the present amendment.

### **Section 1 – Special Factors Relevant to Patentability of Applicant’s Claims**

As a preliminary matter, however, Applicant wishes to emphasize some factors that Applicant believes are highly relevant and that provide further indication, in addition to the following remarks and arguments, regarding the patentability of Applicant’s claims.

#### **A. “At the Time of the Invention”**

The proper test for obviousness is determining what would have been obvious to one of ordinary skill in the art at the time of the invention. The factor is particularly relevant in the patentability determination of Applicant’s claims due to the delay that has occurred between the

time of Applicant's invention to the present. More specifically, Applicant's invention was conceived and reduced to practice sometime prior to the filing date of Applicant's Provisional Patent Application 60/412,863, filed on September 23, 2002. Thus, nearly eight years have passed from the filing date of the provisional application until the present.

Applicant respectfully submits that the level of skill of one of ordinary skill in the relevant technological arts has advanced significantly over this eight year period. However, the obviousness of Applicant's claims must be judged based on the level of skill of one of ordinary skill in the art eight years ago in 2002, not the level of skill in 2010.

#### **B. Evidence of Non-Obviousness**

A second relevant factor in considering the patentability of Applicant's claims is the totality of the disclosures provided in the cited prior art. In this patent application, it is noted that the Examiner has conducted an extensive search of the prior art. A review of the cited prior art, however, reveals significant differences between Applicant's claims and the cited prior art, and that Applicant's claims represent a significant advancement in the relevant technological arts at the time of the invention. Thus, the cited prior art actually provides evidence of the non-obviousness of Applicant's claims.

#### **C. Impermissible Hindsight**

Another relevant factor is both the number of references applied and the manner in which the references are applied. Applicant respectfully submits that the Official Action has pieced together various combinations of three and four references using impermissible hindsight, by relying on Applicant's disclosure as a guide, in formulating the variety of rejections. Applicant

respectfully submits that the specific combination of features recites in Applicant's claims would not have been obvious to one of ordinary skill in the art at the time of the invention, particularly in view of the relatively limitless number of possible combinations that would have presented themselves to one of ordinary skill in the art.

#### **D. The Amended Claims**

In order to expedite the present application to allowance, Applicant provides the present amendment. Applicant respectfully submits that the specific combination of features recited in each of Applicant's amended independent claims, and the claims dependent therefrom, are patentably distinct over any proper combination of cited references, particularly in view of the relevant factors discussed above.

#### **Section 2 – Independent Claim 1 and Related Dependent Claims**

This section is directed as amended independent claim 1 and related dependent claims 2-6, 9-12, 129-131, 133, 135-136, and 155-160. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. The Official Action asserts that TERASE discloses the features of claim 1 relating to Applicant's claimed wireless portable patron unit. Contrary to this assertion, Applicant respectfully submits that TERASE at least fails to disclose a wireless portable patron unit that includes the explicitly recited functions of *enabling entry, using the interactive display, of a plurality of patron information, including: a*

patron identifier, a current location of the patron unit, patron requests, and a different location of the patron unit when the patron moves to the different location at the venue (emphasis added).

TERASE fails to disclose the entry of a patron identifier using the interactive display. TERASE also fails to disclose a current location of the patron unit entered using the interactive display. In distinct contrast, TERASE discloses a table top terminal 10 that reads a table number or a counter seat number when a table top terminal 10 is placed on a stationary terminal receptable. (See TERASE, column 6, line 66, to column 7, line 2.)

TERASE also fails to disclose entry using an interactive display of a different location of the patron unit when the patron moves to the different location at the venue. In fact, Applicant submits that it is impossible for TERASE's system to perform this feature, since TERASE's table top terminal 10 used by a patron can not be moved to different location. In fact, TERASE clearly states that "(e)ach table top terminal and each table terminal receptable 12 are connected using a special flexible cord having a key in order to prevent the table top terminal 10 from theft and from being broken when it falls down from the table." (See TERASE, column 9, lines 55-58.)

Applicant further submits that the above-noted deficiencies of TERASE are not remedied by either MAYER or COGAN.

Applicant submits that TERASE also fails to disclose the features in amended independent claim 1 that explicitly recite that *providing wireless signals to the one or more central computer systems, permitting the one or more central computer systems to receive the entered patron information and to perform a plurality of venue functions, including: authenticating the patron using the patron identifier, processing the patron requests, retrieving previously stored information regarding the authenticated patron from a patron database, and*

wirelessly sending the received patron information and the retrieved patron information to one or more portable wireless staff units (emphasis added).

Applicant submits that TERASE does not disclose a central computer system that authenticates a patron using a patron identifier entered via an interactive display of a patron unit. Additionally, TERASE does not disclose a central computer system retrieving previously stored patron information in a patron database. Furthermore, Applicant submits that neither MAYER nor COGEN disclose these features.

For instance, in distinct contrast, COGEN discloses in paragraphs [0010] and [0035] that to facilitate preparing a restaurant order before arriving at a restaurant, a customer could prepare their order and store the order in a memory of a handheld computer 4 owned by the customer, and then electronically transmit the previously prepared order to the restaurant after arrival at the restaurant. Applicant submits that COGEN's disclose is basically the electronic equivalent to preparing a paper list of a customer's order at home and providing it to the restaurant after the customer arrives at the restaurant. Thus, COGEN fails to disclose, teach, or suggest the provision of a patron database associated with a central computer system of a venue, or the subsequent retrieval of previously stored information regarding an authenticated patron at a venue. Further, COGEN certainly does not disclose, teach, or suggest the wirelessly sending of patron information retrieved from such a venue database to a portable wireless staff unit assigned to a staff member at the venue.

Applicant also submits that COGEN fails to disclose the features of amended independent claim 1 that explicitly recite *selectably receiving and displaying on the interactive display information from the one or more central computer systems, including: a status of open patron requests from the patron, information regarding the patron retrieved from the patron*

database, information from a staff member assigned to the patron, and venue information  
(emphasis added).

Applicant submits that it is impossible for COGEN to disclose the receipt and display of information regarding the patron retrieved from the patron database, since COGEN fails to disclose such a database. Additionally, COGEN fails to disclose the receipt and display of information from a particular staff member assigned to the patron.

The Official Action acknowledges that TERASE fails to disclose providing wireless portable staff units having interactive screens to staff members (See Official Action, page 6.). However, the Official Action asserts that MAYER discloses these features. Contrary to this assertion, Applicant respectfully submits that MAYER fails to disclose the provision of staff units that perform the functions explicitly recited in amended independent claim 1.

For instance, Applicant submits that MAYER at least fails to disclose a staff unit that selectably retrieves and displays *information regarding patrons assigned to a particular staff member, current locations of the assigned patrons, assigned patron requests, status of the assigned patron requests, different locations of the assigned patrons, and patron information regarding the assigned patrons retrieved from the patron database* (emphasis added).

For instance, MAYER does not disclose a current location of assigned patrons and different locations of assigned patrons, and certainly not such location information entered via a patron unit and sent to a staff unit via a central computer system. This particular deficiency of MAYER is distinctly evident since MAYER does not interact with a patron unit. Additionally, MAYER fails to disclose the retrieval and display of patron information regarding assigned patrons from a patron database. Once again, this function would be impossible in MAYER since



MAYER fails to disclose the provision of a patron database as recited in amended independent claim 1.

Similarly, MAYER at least fails to disclose a staff member using an interactive display of a staff device to enter *staff requests, requests for information regarding the assigned patron requests, requests for information from the patron database regarding the assigned patrons, information updating the status of open assigned patron requests, and information modifying the assigned patron requests* (emphasis added). Applicant respectfully submits that MAYER does not disclose the above-cited features for at least two basic reasons. First, MAYER does not disclose the use of patron units to enter patron requests. Thus, MAYER can not respond or modify such requests. Secondly, MAYER can not request information from a patron database, since MAYER fails to disclose such a database.

For at least the reasons discussed above, Applicant respectfully submits that the specific combination of features explicitly recited in amended independent claim 1 is not disclosed or rendered obvious by TERASE, MAYER, COGEN, or any proper combination thereof. Thus, Applicant requests that the rejection of independent claim 1 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 2-6, 9-12, 129-131, 133, 135-136, and 155-160, which depend either directly or indirectly from amended independent claim 1, are also patentable for at least the reasons discussed above regarding amended independent claim 1, and further for the additional features recited therein.

For instance, amended dependent claim 2 recites that interactive video games are automatically activated in the patron unit by a patron making a selection using the interactive display (emphasis added). Applicant submits that TERASE fails to disclose this feature since

TERASE discloses that upon an employee is required to come to a patron's table to enable the use of a game. (See TERASE, column 11, lines 31-40.)

Additionally, new claim 155, which is dependent upon claim 2, recites that *the plurality of services further includes providing music and video*. (emphasis added). Furthermore, new claim 156, which is dependent upon new dependent claim 155, recites that *the plurality of services includes providing internet access and communication services using Voice over Internet Protocol* (emphasis added).

Dependent claim 3 has been amended to recite that *the processing of patron requests comprises routing each patron request to one of a plurality of fulfillment centers that provides a fulfillment that is associated with a specific service included in the patron request, wherein each of the plurality of fulfillment centers provides a different specific service*. The Official Action appears to assert that kitchen terminal(s) 16 is a fulfillment center. However, TERASE's kitchen terminal(s) all provide the same kitchen service. TERASE fails to disclose the provision of a plurality of fulfillment centers provides a different specific service, as recited in claim 3.

Dependent claim 4 was rejected as being obvious by adding a fourth reference RAGSDALE-ELLIOTT, citing paragraph [0089]. However, Applicant the specific combination of features recited in claim 4 are patentable for at least the reason that RAGSDALE-ELLIOTT fails to remedy the many deficiencies of TERASE, MAYER, and COGEN regarding claims 1 and 3, upon which claim 4 depends.

Dependent claim 5 has been amended to depend from dependent claim 4, and recites a combination of features that are patentable for at least the reasons discussed above regarding claim 4, upon which claim 5 depends.

Dependent claim 6 has been amended to depend from dependent claim 4, and now recites that *the patron can request a bill for completed patron requests via the patron unit, and can complete payment for the bill by a preferred payment process, including electronically paying the bill using the patron unit and electronically requesting the assigned staff member to assist the patron in paying the bill* (emphasis added). Applicant submits that the section of TERASE cited in the Official Action, i.e., column 13, lines 26-55, does not disclose a patron unit being capable of completing the payment for the bill electronically using the patron unit. In distinct contrast, the cited section of TERASE discloses that the customer must be guided by the employee to a cashier to complete the payment of the bill.

Dependent claim 9 has been amended to depend from claim 4, and recites a combination of features that are patentable for at least the reasons discussed above regarding claim 4, upon which claim 9 depends.

Dependent claim 10 has been amended to depend from claim 9. The Official Action added BARATZ as disclosing the features recited therein, citing BARATZ's paragraphs [0072]-[0075]. Applicant submits that BARATZ fails to disclose the features in claim 10 that recite *displaying cross-sell and/or up-sell recommendations based on previous patron requests made by a same patron, which have been retrieved from the patron database* (emphasis added). The cited section of BARATZ neither discloses cross-sell and/or up-sell recommendations based on previous patron requests made by a same patron, nor being based on previous patron requests retrieved from a patron database, as explicitly recited in claim 10.

Dependent claim 11 has been amended to depend from claim 9 and recites a combination of features that are patentable for at least the reasons discussed above regarding claim 9, upon which claim 11 depends.

Dependent claim 12 has been amended to recite that *the venue information displayed further includes specific advertisements related the patron's current patron request, and specific advertisements related to previous patron requests of the patron based on information retrieved from the patron database* (emphasis added). Applicant submits that TERASE fails to disclose these features relating to specific advertisements, for at least the reason that TERASE fails to disclose a patron database including information from previous patron requests of the patron.

Amended dependent claims 129 -131 recites a combination of features that are patentable for at least the reasons discussed above regarding amended independent claims 1 upon which claims 129-131 either directly or indirectly depend, since CAMAISA fails to remedy the distinct deficiencies of TERASE, MAYER, and COGEN discussed above.

Dependent claim 133 has been amended to explicitly recite *that the current location comprises a hotel room number associated with the venue* (emphasis added). Applicant submits that LEIFER fails to disclose or render obvious the features recited in claim 133, particularly since LEIFER is directed at a restaurant.

Dependent claims 135-136 has been amended to depend from claim 9. The Official Action added WALKER as disclosing the features recited therein. Applicant submits that WALKER fails to disclose the features of claim 135-136 since WALKER fails to disclose comparing a biometric sample, i.e., fingerprint, of a patron with a previously received biometric sample stored in a patron database, and fails to remedy the deficiencies of the claims from which claims 135-136 depend.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 1-6, 9-12, 129-131, 133, and 135-136 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claims 155-160, which depend either directly or indirectly, on amended independent claim 1 are also patentable for at least the reasons discussed above for the claims upon which each of the new claims depend, and further for the additional features recited therein.

### **Section 3 – Independent Claim 39 and Related Dependent Claims**

This section is directed as amended independent claim 39 and related dependent claims 40-44, 47, 49, 162, and 166. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 39 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 39 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 39 recites features similar to amended independent claim 1.

Thus, Applicant requests that the rejection of independent claim 39 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 40-44, 47, 49, 162, and 166, which depend either directly or indirectly from amended independent claim 39, are also patentable for at least the reasons discussed above regarding amended independent claim 39, and further for the additional features recited therein.

For instance, dependent claim 40 has been amended to recite that the previously ordered item by the patron was retrieved from the patron database by the one or more central computer systems (emphasis added). Applicant submits that COGEN fails to disclose the above-cited feature since COGEN fails to disclose a patron database.

Dependent claim 41 has been amended to depend from claim 40 and to recite that the patron information retrieved from the patron database associated with the one or more central computer systems further includes information relating to patron preferences, patron dietary restrictions, and patron special requests (emphasis added). Applicant submits that the cited paragraph of COGEN fails to disclose either the provision of a patron database or that the information includes patron preference, patron dietary restrictions, and patron special requests.

Dependent claim 42 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 39 upon which claim 42 depends.

Dependent claim 43 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 39 upon which claim 43 depends. Additionally, Applicant submits that TOTH fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 44 recites a combination of features that are patentable at least for the reasons discussed above regarding the claim 39 upon which claim 44 depends. Applicant also submits that RAGSDALE-ELLIOTT fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 47 has been amended to recite that the cross-sell and/or up-sell recommendations are based on previous patron requests made by a same patron, which have been retrieved from the patron database. Applicant submits that the cited paragraphs of

BARATZ fail to disclose the above-cited features of amended claim 47.

Dependent claim 49 has been amended to recite *the wireless portable patron unit to display advertisements selected by the venue, the advertisements including general advertisements provided to all patrons of the venue, specific advertisements related to the patron's current patron request, and specific advertisements related to previous patron requests of the patron based on information retrieved from the patron database* (emphasis added).

Applicant submits that TERASE fails to disclose or render obvious the three particular types of advertisements explicitly recited in claim 49.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 39-44, 47 and 49 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claims 162 and 166, which depend either directly or indirectly, on amended independent claim 39 are also patentable for at least the reasons discussed above for the claims upon which each of the new claims depend, and further for the additional features recited therein.

#### **Section 4 – Independent Claim 50 and Related Dependent Claims**

This section is directed as amended independent claim 50 and related dependent claims 51-55, 57-58, and 168. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 50 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully

submits that the specific combination of features recited in amended independent claim 50 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 50 recites features similar to amended independent claim 1.

Thus, Applicant requests that the rejection of independent claim 50 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 51-55, 57-58, and 168, which depend either directly or indirectly from amended independent claim 50, are also patentable for at least the reasons discussed above regarding amended independent claim 50, and further for the additional features recited therein.

For instance, amended dependent claim 51 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 50 upon which claim 51 depends.

Dependent claim 52 has been amended to recite that the staff unit displays information specifying a quantity of patron requests assigned to a particular staff member. Applicant submits that RAGSDALE-ELLIOTT fails to disclose this feature.

Dependent claim 53 has been amended to recite that the staff unit displays information specifying a quantity of patron requests assigned to a particular zone of responsibility. Applicant submits that RAGSDALE-ELLIOTT fails to disclose this feature.

Dependent claim 54 has been amended to recite that the portable staff unit *is configured to display information specifying a total quantity of patron units that are logged onto a network*



for the venue (emphasis added). Applicant submits that the cited section of TERASE, i.e., column 5, line 53, to column 7, line 5, fails to disclose this feature.

Amended dependent claim 55 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 50 upon which claim 55 depends.

Dependent claim 57 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 50 upon which claim 57 depends.

Dependent claim 58 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 50 upon which claim 58 depends.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 50-58 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claim 168, which depends on amended independent claim 50 is also patentable for at least the reasons discussed above for claim 50, and further for the additional features recited therein.

#### **Section 5 – Independent Claim 59 and Related Dependent Claims**

This section is directed as amended independent claim 59 and related dependent claims 60-68. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 59 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 59 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of

TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 59 recites features similar to amended independent claim 1.

Thus, Applicant requests that the rejection of independent claim 59 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 60-68, which depend either directly or indirectly from amended independent claim 59, are also patentable for at least the reasons discussed above regarding amended independent claim 59, and further for the additional features recited therein.

Dependent claim 60 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 59 upon which claim 60 depends.

Dependent claim 61 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 59 upon which claim 60 depends.

Dependent claim 62 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 59 upon which claim 60 depends.

Dependent claim 63 has been amended to explicitly recite that the *retrieved patron information includes information regarding previously patron requests, patron preferences, patron dietary restrictions, and patron special requests* (emphasis added). Applicant submits that COGEN fails to disclose or render obvious retrieving such patron information, and certainly not from a patron database.

Dependent claim 64 has been amended to recite that *the venue information includes advertisements selected by the venue, the advertisements including general advertisements provided to all patrons of the venue, specific advertisements related to the patron's current patron request, and specific advertisements related to previous patron requests of the patron*

based on information retrieved from the patron database (emphasis added). Applicant submits that COGEN fails to disclose or render obvious provides such venue information, and certainly not based upon information stored in a patron database.

Dependent claim 65 has been amended to explicitly recite that a received patron request includes a request for Internet access provided by the venue. Applicant submits that RAGSDALE-ELLIOTT fails to disclose the provision of such a venue service.

Dependent claim 66 has been amended to recite that *the received patron information includes a request for an electronic bill, which the patron can pay electronically using the patron unit* (emphasis added). Applicant submits that TERASE fails to disclose this feature since TERASE requires that a patron actually pay the bill at a cashier.

Dependent claim 67 has been amended to recite that each of a plurality of venue fulfillment centers provides a different fulfillment. In contrast, the cited section of TERASE discloses one or a plurality of kitchen fulfillment services that each provide the same kitchen fulfillment.

Dependent claim 68 has been amended to recite that the one or more central computer systems *notify a patron that a specific patron request has been successfully processed by a specific fulfillment center that provides a specialized venue service requested by the patron that is not related to the restaurant services of the venue* (emphasis added). Applicant submits that these features are not disclosed or rendered obvious by the cited section of RAGSDALE-ELLIOTT.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 59-68 under 35 U.S.C. § 103(a) cited above be withdrawn.

## **Section 6 – Independent Claim 69 and Related Dependent Claims**

This section is directed as amended independent claim 69 and related dependent claims 70-79, 81-83, 85, 143-144, 161, and 164-165. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 69 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 69 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 69 recites features similar to amended independent claim 1.

Thus, Applicant requests that the rejection of independent claim 69 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 70-79, 81-83, 85, 143-144, 161, and 164-165, which depend either directly or indirectly from amended independent claim 69, are also patentable for at least the reasons discussed above regarding amended independent claim 69, and further for the additional features recited therein.

For instance, amended dependent claim 70 explicitly recites that *the wireless portable patron unit is a dedicated device capable of being handheld and carried by the patron to the different location* (emphasis added), which TERASE fails to disclose since TERASE's table top terminal 10 is not able to be moved to a different location since it is affixed to the table terminal receptacle by a security cord having a key, as previously discussed.

Dependent claim 71 has been amended to depend from claim 70 and recites a combination of features that are patentable at least for the reasons discussed above regarding the claim upon which claim 71 depends. Applicant submits that CAMAISA fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 72 has been amended to depend from claim 70 and to recite the provision of various size fonts selectable by a user of the interactive display. Applicant submits that CAMAISA fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 73 has been amended to depend from claim 70, and recites a combination of features that are patentable at least for the reasons discussed above regarding the claims upon which claim 73 depends.

Dependent claim 74 has been amended to depend from claim 70. Applicant that GOLD fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 75 has been amended to depend from claim 70, and to recite that the previously ordered item by the patron was retrieved from the patron database by the one or more central computer systems (emphasis added). Applicant submits that COGEN fails to disclose the above-cited feature since COGEN fails to disclose a patron database.

Dependent claim 76 has been amended to depend from claim 75, and to recite that the patron information retrieved from the patron database associated with the one or more central computer systems further includes information relating to patron preferences, patron dietary restrictions, and patron special requests (emphasis added). Applicant submits that the cited paragraph of COGEN fails to disclose either the provision of a patron database or that the information includes patron preference, patron dietary restrictions, and patron special requests.

Dependent claim 77 recites a combination of features that are patentable at least for the reasons discussed above regarding the claim 69 upon which claim 77 depends.

Dependent claim 78 has been amended to recite that *the authentication comprises enabling the wireless portable patron unit to accept a biometric sample of the patron, which is compared to a previously received biometric sample of the patron that is stored in the patron database* (emphasis added). Applicant submits that the cited paragraph [0071] of TOTH fails to disclose an authentication process that either receives a biometric sample or that compares such a biometric sample with a previously patron biometric sample stored in a patron database.

Dependent claim 79 recites a combination of features that are patentable at least for the reasons discussed above regarding the claim 69 upon which claim 79 depends. Applicant also submits that RAGSDALE-ELLIOT fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 81 has been amended, *inter alia*, to further recite that the patron unit is configured to also display messages from other patrons on the user interface of the interactive display of the patron unit. Applicant submits that TERASE fails to disclose at least this feature of amended claim 81.

Dependent claim 82 has been amended to depend upon claim 81 and recites a combination of features that are patentable at least for the reasons previously discussed regarding the claims upon which claim 82 depends.

Dependent claim 83 has been amended to depend from claim 82 and to recite that the cross-sell and/or up-sell recommendations are based on previous patron requests made by a same patron, which have been retrieved from the patron database. Applicant submits that the cited paragraphs of BARATZ fail to disclose the above-cited features of amended claim 83.

Dependent claim 85 has been amended to recite that *the user interface is configured to display advertisements selected by the venue, the advertisements including general advertisements provided to all patrons of the venue, specific advertisements related to the patron's current patron request, and specific advertisements related to previous patron requests of the patron based on information retrieved from the patron database* (emphasis added).

Applicant submits that the cited sections of TERASE fail to disclose the three types of advertisements as recited above.

Dependent claim 143 has been amended to recite that *the different location of the wireless portable patron unit is determined by a wireless link to one or more network access points, which wirelessly communicates with the one or more central computer systems* (emphasis added). Applicant submits that TERASE fails to disclose the determination of a different location by a wireless link to network access points, since TERASE's table top terminal does not move to a different location.

Dependent claim 144 has been amended to recite *wherein the current location is entered into the patron unit by the patron and the different location of the portable patron unit is determined via the GPS receiver*. Applicant submits that FANO fails to disclose the entry of a current location and a different location in the two distinctly different manners recited in claim 144.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 69-79, 81-83, 85 and 143-144 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claims 161 and 164-165, which depend either directly or indirectly, on amended independent claim 69 are also patentable for at least the reasons

discussed above for the claims upon which each of the new claims depend, and further for the additional features recited therein.

#### **Section 7 – Independent Claim 86 and Related Dependent Claims**

This section is directed as amended independent claim 86 and related dependent claims 87-93 and 167. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 86 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 86 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 86 recites features similar to amended independent claim 1.

Thus, Applicant requests that the rejection of independent claim 86 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 87-93 and 167, which depends from amended independent claim 86, is also patentable for at least the reasons discussed above regarding amended independent claim 86, and further for the additional features recited therein.

For instance, amended dependent claim 87 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 86 upon which claim 87 depends.



Applicant notes that dependent claims 88 and 89 do not appear to be included in any of various rejections asserted in the Official Action. Thus, Applicant believes that claims 88-89 recite allowable subject matter, and would be in condition for allowance if rewritten in independent form. Applicant requests that the Examiner confirm the allowability of claims 88-89 in the next Official communication.

Amended dependent claim 90 recites that the portable staff unit *is configured to display information specifying a total quantity of patron units that are logged onto a network for the venue* (emphasis added). Applicant submits that the cited section of TERASE, i.e., column 5, line 53, to column 7, line 5, fails to disclose this feature.

Amended dependent claim 91 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 86 upon which claim 91 depends.

Dependent claim 92 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 86 upon which claim 92 depends. Additionally, Applicant submits that RAGSDALE-ELLIOTT fails to remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Dependent claim 93 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 86 upon which claim 93 depends.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 86-93 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claim 167, which depends on amended independent claim 86 is also patentable for at least the reasons discussed above for claim 86, and further for the additional features recited therein.

## **Section 8 – Independent Claim 110 and Related Dependent Claims**

This section is directed as amended independent claim 110 and related dependent claims 112-116 and 169. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 110 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 110 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 110 recites features similar to amended independent claim 1.

Thus, Applicant requests that the rejection of independent claim 110 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 112-116 and 169, which depend either directly or indirectly from amended independent claim 110 are also patentable for at least the reasons discussed above regarding amended independent claim 110 and further for the additional features recited therein.

Dependent claim 112 has been amended to recite that the staff unit displays a total number of patron requests assigned to each of a plurality of particular staff members. Applicant submits that RAGSDALE-ELLIOTT does not disclose this feature.

Dependent claim 113 has been amended to recite that the staff unit displays a total number of patron requests assigned to a particular zone of responsibility at the venue. Applicant submits that RAGSDALE-ELLIOTT does not disclose this feature.

Dependent claim 114 has been amended to recite that the staff unit displays a total quantity of patron units that are actively logged onto the wireless network for the venue. Applicant submits that TERASE does not disclose this feature.

Dependent claim 115 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 110 upon which claim 115 depends.

Dependent claim 116 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 110 upon which claim 116 depends.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the various rejections of claims 110 and 112-116 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claim 169, which depends on amended independent claim 110 is also patentable for at least the reasons discussed above for claim 110, and further for the additional features recited therein.

#### **Section 9 – Independent Claim 118 and Related Dependent Claims**

This section is directed as amended independent claim 118 and related dependent claims 140 and 170-171. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 118 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 118 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 118 recites features similar to amended independent claim 1.

Additionally, amended claim 118 also recites that the patron unit includes *having downloaded therein a stadium/arena seating configuration of a designated stadium/arena* (emphasis added), and similar references to the stadium/arena configuration., which Applicant submits are not disclosed or rendered obvious by TERASE, MAYER, COGEN, or any proper combination thereof.

Thus, Applicant requests that the rejection of independent claim 118 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claims 140 and 170-171, which depend either directly or indirectly from amended independent claim 118, are also patentable for at least the reasons discussed above regarding amended independent claim 118, and further for the additional features recited therein.

Amended dependent claim 140 recites a combination of features that are patentable at least for the reasons discussed above regarding claim 118 upon which claim 140 depends. Additionally, Applicant submits that CAMAISA does not remedy the deficiencies of TERASE, MAYER, and COGEN previously discussed.

Thus, for at least the reasons discussed above, Applicant respectfully requests that the rejections of claims 118 and 140 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claims 170-171, which depend on amended independent claim 118 are also patentable for at least the reasons discussed above for claim 118, and further for the additional features recited therein.

#### **Section 10 – Independent Claim 120 and Related Dependent Claim**

This section is directed as amended independent claim 120 and related dependent claim 141. Applicant respectfully submits that the specific combination of features recited in this claim would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 120 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 120 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 120 recites features similar to amended independent claim 1. Additionally, amended claim 120 also recites features that specifically relate to a stadium/arena.

Applicant also submits that claim 141, which depends from amended independent claim 120, is also patentable for at least the reasons discussed above regarding amended independent claim 120, and further for the additional features recited therein. Thus, Applicant respectfully

requests that the rejection of independent claim 120 and 141 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

### **Section 11 – Independent Claim 122 and Related Dependent Claims**

This section is directed as amended independent claim 122 and related dependent claims 123 and 181. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 122 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 122 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 122 recites features similar to amended independent claim 1. Additionally, amended claim 122 also recites features that specifically relate to a stadium/arena. Thus, Applicant requests that the rejection of independent claim 122 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claim 123, which depends from amended independent claim 122, is also patentable for at least the reasons discussed above regarding amended independent claim 122, and further for the additional features recited therein. Thus, for at least the reasons discussed above, Applicant respectfully requests that the rejections of claims 122 and 123 under 35 U.S.C. § 103(a) cited above be withdrawn.

Applicant further submits that new claim 181, which depends on amended independent claim 122 is also patentable for at least the reasons discussed above for claim 122, and further for the additional features recited therein.

#### **Section 12 – Independent Claim 124**

This section is directed as amended independent claim 124. Applicant respectfully submits that the specific combination of features recited in this claim would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 124 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 124 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 124 recites features similar to amended independent claim 1. Additionally, amended claim 124 also recites features that specifically relate to a stadium/arena, which are not disclosed or rendered obvious by TERASE, MAYER, COGEN, or any proper combination thereof. Thus, Applicant respectfully requests that the rejection of independent claim 124 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

### **Section 13 – Independent Claim 151 and Related Dependent Claim**

This section is directed as amended independent claim 151 and related dependent claim 152. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 151 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 151 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 151 recites features similar to amended independent claim 1. Additionally, amended claim 151 also recites additional features that include the one or more central computer systems determining the current location and the different location of the wireless portable patron unit by processing the various wireless signals transmitted from the wireless portable patron unit, as well as a map of the venue showing the various locations of the patron using the patron unit thereon. Thus, Applicant requests that the rejection of independent claim 151 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant also submits that claim 152, which depends from amended independent claim 151, is also patentable for at least the reasons discussed above regarding amended independent claim 151, and further for the additional features recited therein. Thus, for at least the reasons



discussed above, Applicant respectfully requests that the rejections of claims 151 and 152 under 35 U.S.C. § 103(a) cited above be withdrawn.

#### **Section 14 – Independent Claim 153 and Related Dependent Claims**

This section is directed as amended independent claim 153 and related dependent claims 154 and 173. Applicant respectfully submits that the specific combination of features recited in these claims would not have been obvious to one of ordinary skill in the art at the time of the invention for several reasons.

In the Official Action, independent claim 153 was rejected under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN. Applicant respectfully submits that the specific combination of features recited in amended independent claim 153 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of TERASE, MAYER, and COGEN for reasons similar to the reasons discussed in the preceding Section 2, regarding independent claim 1, which are expressly incorporated herein, since amended independent claim 153 recites features similar to amended independent claim 1. Additionally, amended claim 153 also recites additional features that include downloading a patron unit software application to patron-supplied hardware thereby allowing the patron-supplied hardware to operate as a wireless portable patron unit and to provide a plurality of venue functions. Applicant also submits that claim 154, which depends from amended independent claim 153, is also patentable for at least the reasons discussed above regarding amended independent claim 153, and further for the additional features recited therein. Thus, Applicant requests that the rejection of claims 153-154 under 35 U.S.C. § 103(a) as being unpatentable over TERASE in view of MAYER and COGEN be withdrawn.

Applicant further submits that new claim 173, which depends on amended independent claim 153, is also patentable for at least the reasons discussed above regarding amended independent claim 153, and further for the additional features recited therein.

## **STATEMENT OF THE SUBSTANCE OF EXAMINER INTERVIEW**

On August 10, 2010, a personal interview was held regarding the present patent application. The participants in the personal interview were Examiner Ig T. An, Supervisory Patent Examiner Matthew S. Gart, Applicant Julie M. Werbitt, and Applicant's Attorney Gary V. Harkcom. During the interview, Mr. Harkcom and Ms. Werbitt addressed the rejection of independent claims 1, 39, 50, 59, 69, 86, 110, 118, 120, 122, 124, 125, 127, 150, 151, and 153 under 35 U.S.C. § 103(a) over TERASE, MAYER, and COGEN. The discussion primarily focused upon independent claim 1, as an exemplary claim, and various significant distinctions between the specific combination of features recited in claim 1 when compared with TERASE, MAYER, and COGEN. The interview also included a discussion of possible amendments to the independent claims to further emphasize the features recited therein. No specific agreement regarding the independent claims was reached. Mr. Harkcom stated that a response to the Official Action would be filed soon.

## SUMMARY

From the amendment, arguments, and remarks provided above, Applicant submits that all of the pending claims in the present patent application are patentable over the references cited by the Examiner, either alone or in combination. Accordingly, reconsideration of the outstanding Official Action is respectfully requested and an indication of the allowance of claims 1-6, 9-12, 39-44, 47, 49-55, 57-79, 81-83, 85-93, 110, 112-116, 118, 120, 122-124, 129-131, 133, 135-136, 140-141, 143-144, and 151-173 is now believed to be appropriate.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,  
Julie M. WERBITT



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August 18, 2010  
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